

## §§ 1738.105–1738.150

## 7 CFR Ch. XVII (1–1–13 Edition)

change between the preliminary assessment and application submission. A preliminary assessment indicating that a proposed service area may be eligible does not guarantee that the area will remain eligible at the time of application.

### §§ 1738.105–1738.150 [Reserved]

#### Subpart D—Direct Loan Terms

##### § 1738.151 General.

(a) Direct loans shall be in the form of a cost-of-money loan, a 4-percent loan, or a combination of the two.

(b) The amount of funds available for each type of loan, as well as maximum and minimum loan amounts, will be published in the FEDERAL REGISTER.

(c) An applicant that provides telecommunications or broadband service to at least 20 percent of the households in the United States is limited to a loan amount that is no more than 15 percent of the funds available to the Broadband Loan Program for the Federal fiscal year.

##### § 1738.152 Interest rates.

(a) Direct cost-of-money loans shall bear interest at a rate equal to the cost of borrowing to the Department of Treasury for obligations of comparable maturity. The applicable interest rate will be set at the time of each advance.

(b) [Reserved]

##### § 1738.153 Loan terms and conditions.

Terms and conditions of loans are set forth in a mortgage, note, and loan contract. Samples of the mortgage, note, and loan contract can be found on the Agency's Web site.

(a) Unless requested to be shorter by the applicant, broadband loans must be repaid with interest within a period that, rounded to the nearest whole year, is equal to the expected composite economic life of the assets to be financed, as determined by the Agency based upon acceptable depreciation rates.

(b) Loan advances are made at the request of the borrower. Principal payments for each advance are amortized over the remaining term of the loan and are due monthly. Principal payments will be deferred until one year

after the date of the first advance of loan funds. Interest begins accruing when the advance is made and interest payments are due monthly, with no deferral period.

(c) Borrowers are required to carry fidelity bond coverage. Generally this amount will be 15 percent of the loan amount, not to exceed \$5 million. The Agency may reduce the percentage required if it determines that the amount is not commensurate with the risk involved.

##### § 1738.154 Loan security.

(a) The broadband loan must be secured by the assets purchased with the loan funds, as well as all other assets of the applicant and any other signer of the loan documents except as provided in § 1738.155.

(b) The Agency must be given an exclusive first lien, in form and substance satisfactory to the Agency, on all of the applicant's property and revenues and such additional security as the Agency may require. The Agency may share its first lien position with another lender on a *pari passu*, prorated basis if security arrangements are acceptable to the Agency.

(c) Unless otherwise designated by the Agency, all property purchased with loan funds must be owned by the applicant.

(d) In the case of loans that include financing of facilities that do not constitute self-contained operating systems, the applicant shall furnish assurance, satisfactory to the Agency, that continuous and efficient service at the broadband lending speed will be rendered.

(e) The Agency will require financial, investment, operational, reporting, and managerial controls in the loan documents.

##### § 1738.155 Special terms and conditions.

(a) The Agency may, when it is in the best interest of the Agency and its mission, the affected community, and the applicant, aid in achieving financial feasibility in an underserved area by taking the following steps:

- (1) Extend the loan term up to 35 years, and
- (2) Modify its security requirements.